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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,303

09/01/2007

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EXAMINER

ADAMS, GREGORY W

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,303	Applicant(s) FUJIWARA, KIYOSHI	
	Examiner GREGORY W. ADAMS	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/23/06; 1/19/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election with traverse of Species F (FIGS. 2-4 & 9) in the reply filed on July 13, 2009 is acknowledged. The traversal is on the ground(s) that there is unity of invention amongst all species. This is not found persuasive because the essential test is not whether there is unity amongst all species but whether the inventive concept is separate to all species. See MPEP 1850. In this case each species discloses a different configuration for container inspection location and process.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 & 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced, e.g. it doesn't begin a step with "providing" or "using" or some other **-ing** ending word that provides the active step. (Emphasis added.) Applicant is respectfully reminded that to be entitled to patentable weight in method claims, the structural limitations recited therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. See *Ex parte Pfeiffer*, 135 USPQ 31 (1961). For example, claim 1 recites "an automated guided vehicle moves in circulation" which is not lexicographically equivalent to --moving and circulating an automated guided

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vehicle--. Thus, the claims amount to the mere claiming of a use of a particular structure. As this appears to be a translation of a foreign filed application the examiner assumed proper method claiming terminology as best understood. For example, claim 1 is interpreted as --providing an automated guided vehicle and associated circulating area, quay area, container ship and container cargo; moving and circulating the automated guided vehicle in the circulation area in a quay area where the container ship anchors; transferring the container to/from the ship; and radiation inspecting the container during said moving step while the container cargo on the automated guided vehicle and subjecting the container to radiation inspection. --

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-9 & 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusano (JP 2003-252448) in view of Franke (aka Weis et al.) (DE 20309047 U1) (see US 2006/0243693 A1 for translation) and Grodzins (US 5,910,973). Kusano discloses-

- an automated guided vehicle 10 moves in circulation in a quay area 1a, 3 where a container ship 2 anchors and transfers a container to/from a ship;
- a container cargo on an automated guided vehicle is subjected to positional scanning (FIG. 8) while an automated guided vehicle is moving in circulation;

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- wherein an automated guided vehicle moves in circulation between a container stack yard (FIG. 11) and an area for container transfer to/from a ship, and a container cargo on an automated guided vehicle moving in circulation is subjected to inspection;
- wherein a circulation loop in a quay area and a circulation loop connecting a quay area and a container stack yard are provided, and an automated guided vehicle is capable of selecting one loop for transport;
- and container transfer means (FIGS 1, 11).

Kusano discloses scanning (the equivalent of inspecting) a container carrying AGV to provide positional accuracy to a quay crane. Kusano does not disclose radiation inspection, i.e. inspecting by radiation.

Franke discloses that container cargo is subjected to radiation inspection in a quay area which is particularly useful in harbors where containers are loaded into and unloaded from ships where a large number of containers is supposed to be loaded and unloaded quickly. Paras. [0001-0008]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and method of Kusano to scan in a quay area, as per the teachings of Franke, to minimize ship docking time.

Grodzins discloses subjecting container cargo to radiation inspection 1, 3-5 and further discloses that "Container 6 may be self-propelled through beam 4 or may be pulled by a mechanized tractor, or by a conveyor of any sort." C2/L45. Finally, Grodzins discloses that radiation inspection "can be rapidly deployed in any location to inspect

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moving vehicles of any size to determine if their cargo container contains objects larger or heavier than a predetermined minimum.” C2/L58. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and method of Kusano to radiation inspect containers while carried by AGVs, e.g. self-propelled containers, because Grodzins’ system is automatic, locatable anywhere along a container supply chain, i.e. portable, requires little power, are safe to humans and is able to handle small and very large vehicles or freight cars. C4/L40.

Franke discloses disadvantages of ground-based radiation inspection systems including (1) a separate reloading or transport process is required and (2) a corresponding shield to protect drivers or persons. Grodzins’ ground-based system scans self-propelled vehicles such as Kusano’s negating this disadvantage and further utilizes low power radiation means which are not harmful to humans. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and method of Kusano to combine Franke’s teaching of quay area radiation inspection with Grodzins’ radiation inspection of AGV carried containers to achieve the predictable result of improving container throughput at a shipping port.

Claims 3-4 & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusano in view of Franke and Grodzins and further in view of Okubo (JP 09-156769 A). Kusano discloses a container transfer means that transfers containers between AGVs and storage stacks. Okubo discloses a container transferred between an automated

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guided vehicle 8 moving in circulation and a truck chassis 9 using a container transfer means 7. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and method of Kusano to include a container transfer means that transfers containers between an AGV and truck chassis, as per the teachings of Okubo, "o smoothly and safely convey containers in a container terminal."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Gregory W Adams/
Primary Examiner, Art Unit 3652